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2004 Regular Session 4lr0431

By: Delegates Doory, Amedori, Barkley, Bartlett, Conroy, DeBoy, Goodwin, Howard, Hubbard, Kaiser, Madaleno, Mandel, Montgomery, Nathan-Pulliam, O'Donnell, Pendergrass, and Zirkin
Introduced and read first time: February 5, 2004

Assigned to: Judiciary

A BILL ENTITLED

1	1 AN ACT concerning							
2	Crimes - Surveillance - Cellular or Wireless Telephones Equipped with Cameras							
5 6 7 8 9 10 12 13	circumstances extend to cellular or wireless telephones equipped with cameras that are used to conduct visual surveillance; clarifying that the misdemeanor of placing or procuring another to place a camera on certain real property to conduct deliberate surreptitious observation of a certain individual under certain circumstances extends to the placement of a cellular or wireless telephone equipped with a camera to conduct deliberate surreptitious observation; applying certain penalties to certain prohibited acts; defining certain terms; making a stylistic change; and generally relating to the use of cellular or wireless telephones equipped with cameras in surveillance crimes.							
6 7 8 9	Section 3-901 through 3-903 Annotated Code of Maryland							
	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:							
22		Article - Criminal Law						
23	3-901.							
24	(a) (1)	In this section the following words have the meanings indicated.						
25	(2)	"Private place" means a dressing room or rest room in a retail store.						
26	(3)	"Visual surveillance" means surveillance by:						

an office, business, or store:

a hotel, motel, or other lodging facility;

a recreational facility;

a restaurant or tavern;

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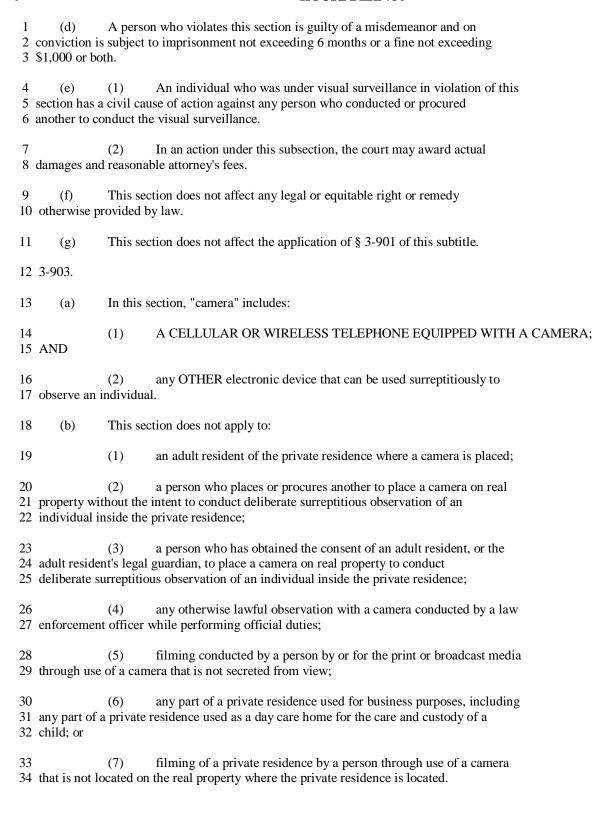
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1				5.	a theater or sports arena;			
2				6.	a school or other educational institution;			
3				7.	a bank or other financial institution;			
4 5	of a child; or			8.	any part of a day care home used for the care and custody			
6				9.	another place of public use or accommodation.			
7 8	bedroom, or re		(ii)	"Private	e place" includes a tanning room, dressing room,			
9 (4) (i) "Visual surveillance" means the deliberate[,] surreptitious 10 observation of an individual by any means.								
11			(ii)	"Visual	surveillance" includes surveillance by:			
12				1.	direct sight;			
13				2.	the use of mirrors; [or]			
14				3.	the use of cameras; OR			
15 16	15 4. THE USE OF CELLULAR OR WIRELESS TELEPHONES.							
17 18	7 (iii) "Visual surveillance" does not include a casual, momentary, or 3 unintentional observation of an individual.							
19	(b) This section does not apply to a person who without prurient intent:							
20	((1)	conducts	s filming	by or for the print or broadcast media;			
21 22	(2) conducts or procures another to conduct visual surveillance of an individual to protect property or public safety or prevent crime; or							
23	((3)	conducts	s visual s	surveillance and:			
24 25	Occupations a		(i) essions A		license issued under Title 13 or Title 19 of the Business nd			
26			(ii)	is acting	g within the scope of the person's occupation.			
	(c) A person may not with prurient intent conduct or procure another to conduct visual surveillance of an individual in a private place without the consent of that individual.							

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- 1 (c) A person may not place or procure another to place a camera on real 2 property where a private residence is located to conduct deliberate surreptitious 3 observation of an individual inside the private residence.
- 3 observation of an individual inside the private residence.
- 4 (d) A person who violates this section is guilty of a misdemeanor and on 5 conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding
- 6 \$1,000 or both.
- 7 (e) Subject to subsection (b)(1) of this section, it is not a defense to a 8 prosecution under this section that the defendant owns the private residence.
- 9 (f) A good faith reliance on a court order is a complete defense to a civil or 10 criminal action brought under this section.
- 11 (g) (1) An individual who was observed through the use of a camera in
- 12 violation of this section has a civil cause of action against any person who placed or
- 13 procured another to place the camera on the real property.
- 14 (2) In an action under this subsection, the court may award damages and 15 reasonable attorney's fees.
- 16 (h) This section does not affect any legal or equitable right or remedy 17 otherwise provided by law.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 19 October 1, 2004.